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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/741,794	12/19/2003	Leslie Leah Anderson	Anderson, et al	5579
7590 10/19/2005				
JANET I. STOCKHAUSEN USDA FOREST SERVICE ONE GIFFORD PINCHOT DRIVE MADISON, WI 53726-2398			EXAMINER POLLICOFF, STEVEN B	
			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/741,794	ANDERSON ET AL.	
	Examiner	Art Unit	
	Steven B. Pollicoff	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/19/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference number(s) mentioned in the description: "12" (see Paragraph [0041] Line 6 and 8). However, Applicant may delete the reference number from the description instead of adding it to the drawings. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference number(s) not mentioned in the description: "121" (see Figure 2). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the

changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating

obviousness or nonobviousness.

Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrilli et al, U.S. Pat. No. 5,921,388, in view of Gupta et al, U.S. Pat. No. 6,672,323.

Petrilli et al., discloses a fire shelter storage system comprising a fire shelter unit (see Figure 4), an outer protective pouch (see Petrilli, Figure 1, (10)), a cover (28), a releasable fastener (36,38), and a handle (42). Petrilli et al., does not disclose a fire shelter unit with an oval floor or a canopy that is semi-capsular in shape. However, Gupta et al., discloses a multipurpose self-erecting structure having an oval floor and a

semi-capsular shape (see Gupta, Figure 1) for the purposes of being used as a portable shelter or tent that provides for self-erecting capability, small storage in portable containers, easy transport, and desirable stability on uneven surfaces when the structure is in use (Page 2, Column 2, 1<sup>st</sup> Full Paragraph). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Petrilli et al., invention to include a shelter with an oval floor and a semi-capsular shape.

Petrilli et al., also discloses that the fire shelter unit is folded and sealed in a protective envelope and that the handle is attached to the protective envelope to be separate from the emergency fire shelter (see Figure 1). Petrilli's disclosure reads directly on Claim 16 of the present invention.

Petrilli et al., further discloses that the handle is a flexible strap (see Figure 1). Petrilli's disclosure read directly on Claim 17 of the present invention.

Petrilli et al., further discloses that the releasable fastener includes first fastener halves attached to the pouch and cover and wherein the handle includes second fastener halves whereby the handle may be interposed between the releasable fastener with the first fastener half of the pouch releasably attached to a second fastener half of the handle and the remaining second fastener half of the handle releasably attached to the first fastener half of the cover (see Figure 2). Petrilli's disclosure reads directly on Claim 18 of the present invention.

Petrilli et al., still further discloses that the releasable fastener is a fabric hook and loop fastener (see Figure 1). Petrilli's disclosure reads directly on Claim 19 of the present invention.

Finally, Petrilli et al., discloses that the fire shelter system includes a secondary rigid protective sleeve holding a folded emergency fire shelter sealed in the protective envelope (see Figure 1, (16)). Petrilli's disclosure reads directly on Claim 20 of the present invention.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Hilbert reference (U.S. Pat. No. 6,192,633) is cited for illustrating a protective shelters having an oval floor and a semi-capsular shape. The Koseberg reference (U.S. Pat. No. 5,447,227) is cited to illustrate a pouch and it's various components including a cover, a releasable fastener, a protective envelope and a secondary rigid protective sleeve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBP



Mickey Yu  
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